

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

United States of America

v.

Van L. Mayes
DOB: xx/xx/1987

Case No. 18-892 m(N)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 13-14 2016 in the county of Milwaukee in the
Eastern District of Wisconsin, the defendant(s) violated:

Code Section

Offense Description

Title 18 U.S.C § 844(i)

Attempted arsons

Title 18 U.S.C § 922(g)

Possession of a firearm by a prohibited person

Title 18 U.S.C § 924(c)(1)(B)(ii)

Possession of a destructive device in relation to a crime of violence

This criminal complaint is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Special Agent Rick Hankins, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 6-27-18City and state: Milwaukee, Wisconsin

Judge's signature

Honorable Nancy Joseph, Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

AFFIDAVIT FOR A CRIMINAL COMPLAINT AND ARREST WARRANT

1. I am a Special Agent of the United States Justice Department, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), currently assigned to the Milwaukee Field Office. I have been so employed since April 2003. My duties as a Special Agent with ATF include investigating alleged violations of the federal firearms, explosives, and arson statutes.

2. I have completed approximately 26 weeks of training at the Federal Law Enforcement Training Center (Glynco, Georgia), as well as the ATF National Academy. That training included various legal courses related to Constitutional Law as well as search and seizure authority. Additionally, I have received training on how to conduct various tasks associated with criminal investigations, such as: interviewing, surveillance, and evidence collection.

3. In addition to my duties as a criminal investigator, I am also an ATF Certified Fire Investigator (CFI). As an ATF CFI, I am tasked with providing expert opinions as to the origin and cause of fires. I obtained the ATF CFI certification in 2009 following a two-year training program that centered on various fire science topics including, but not limited to: chemistry, fire dynamics, and building construction. The two-year ATF CFI certification program consisted of college courses, written exams, research papers, reading assignments, practical training exercises, and test burns of various materials. I am re-certified annually as an ATF CFI. To date, I have participated

in over 235 fire scene examinations and have testified as an expert. Additionally, I have been certified as a fire investigator by the International Association of Arson Investigators since June 2011. I have received over 1,200 class hours of fire related training. Furthermore, I have been an instructor regarding fire related topics on 38 occasions for the following agencies and institutions: The National Fire Academy (FEMA), International Association of Arson Investigators Chapter 25, Waukesha County Technical College, and Blackhawk Technical College. I have also participated in over 185 live fire training exercises, where I started training fires and observed fire growth and development. Finally, I was a full-time instructor at the ATF National Academy from August 2015 – August 2016, where I taught several topics during Special Agent Basic Training for new ATF recruits. Specifically, I was a primary instructor for the arson block of training at the ATF Academy.

4. I have previously applied for and received search warrants related to the crime of arson, firearms trafficking, illegal possession of firearms, as well as other crimes.

5. Information contained in this affidavit was either obtained directly by me or by other investigators who I believe to be truthful and credible. The facts in this affidavit come from personal observations, training and experience, and information obtained from other investigators and witnesses.

6. As a federal law enforcement officers, I am empowered by law to conduct investigations of, and to make arrests for, federal felony offenses.

7. This affidavit is being submitted in support of a criminal complaint for Van L. MAYES (age 31). Because this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint, I have not included every detail of every aspect of the investigation. Rather, I have set forth only those facts that I believe necessary to establish probable cause. The information contained in this affidavit is based upon my personal knowledge, my review of documents and other evidence, and my conversations with other law enforcement officers and other individuals.

8. I respectfully submit that there is probable cause to believe that on or about August 15, 2016, MAYES committed crimes in violation of 18 U.S.C §§ 844(i) (attempted arson), 922(g) (possession of a firearm by a prohibited person), and 924(c)(1)(B)(ii) (possession of a destructive device in relation to a crime of violence).

9. The victim in this case include the Milwaukee Police Department (hereinafter "MPD"). MPD is a municipal police agency that provides law enforcement services to the City of Milwaukee, Wisconsin. Activities of MPD include patrolling traffic on the interstate and other roads, checking whether stopped persons or vehicles are wanted by federal or out-of-state authorities, and investigating or arresting individuals who live or conduct business outside of Wisconsin. As such, I respectfully submit that activities of MPD affect interstate commerce.

PROBABLE CAUSE

10. On August 13 and 14, 2016, Milwaukee experienced widespread arson, rioting, and looting in the area surrounding Sherman Park. The rioting and looting was,

in part, a response to Milwaukee Police Officer Dominique Heaggan-Brown's shooting of Sylville Smith at the intersection of N. 44th Street and W. Auer Ave.

11. Through an investigation into these arsons, the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives (hereinafter "ATF") discovered that several individuals, known and unknown and including Van L. MAYES, conspired and attempted to use Molotov cocktails¹ to firebomb the Milwaukee Police Department (MPD) District Seven Station located at 3626 W. Fond du Lac Ave. Milwaukee, WI, which is a building used in interstate commerce.

12. On August 23, 2016, ATF was contacted regarding Molotov cocktails located within a dumpster at XX8X N. Sherman Blvd., Milwaukee. Inside of the dumpster, ATF Special Agents located a brown cardboard box holding ten glass bottles containing gasoline with a dark-colored fabric wick inserted into the openings. From training and experience, the agents identified these devices as Molotov cocktails. The Molotov cocktail bottles were labeled as Mike's Hard Lemonade, Everfresh Juice, Mystic Juice, and Seagram's Escape Wine Coolers, which had been shipped or transported in interstate commerce.

13. ATF identified Van L. MAYES as a person of interest; and on August 29, 2016, agents conducted a search warrant at MAYES' residence. In his residence, agents located Seagram's Escape Wine Cooler and Everfresh Juice bottles. These bottles were

¹ A Molotov cocktail is a glass container or bottle that holds a flammable liquid, often gasoline. A wick is inserted into the container or bottle and then lit. The container or bottle is thrown causing fire to spread upon impact.

the same brands of the bottles that were used in the construction of the Molotov cocktails recovered by agents on August 23.

14. On August 30, 2016, ATF agents conducted a search at an apartment located at XX8X N. Sherman Blvd. During the search, agents located evidence of Molotov cocktails: ripped dark-colored fabric consistent with the fabric found in the recovered Molotov cocktails; two partially empty gas cans inside of a bedroom; a gas can nozzle within the apartment's yard; a Mike's Hard Lemonade bottle; and Seagram's Escape and Mystic Juice bottle caps, which were consistent with the types of bottles used to construct the recovered Molotov cocktails.

15. On September 20, 2016, ATF Agents informed MAYES that bottles that came from MAYES' residence may have been used to manufacture Molotov cocktails. MAYES said that the bottles came from his residence so his DNA would be on them. MAYES said that he drank from Everfresh Juice and Seagram's Escape bottles.

16. From the investigation, ATF agents discovered that MAYES was a coordinator of "Program the Parks," which was an organization focused on mentoring for Sherman Park teenagers.

17. Source of Information-1 (SOI-1) stated that a few days after the rioting on or about August 15, MAYES, C.E., C.M., B.H., and others met by the burned down BP Gas Station in Sherman Park and discussed firebombing the police station located at 3626 W. Fond Du Lac Ave. The group agreed to meet at the apartment located at XX8X N. Sherman Blvd. to further the plan. XX8X N. Sherman Blvd is approximately a half of a mile from the police station located at 3626 W. Fond Du Lac Ave. SOI-1 stated that

MAYES brought gas cans and glass bottles to the location. MAYES, C.M., and M.W. began to manufacture the Molotov cocktails. SOI-1 said some of the bottles were juice bottles, and there was a black coat that was ripped and used for the Molotov cocktail wicks. SOI-1 said D.M. acted as lookout while the Molotov cocktails were being manufactured. The finished Molotov cocktails were placed into a cardboard box. SOI-1 saw B.H. and others bring a bag of rocks to XX8X N. Sherman Blvd. B.H. was organizing Sherman Park teenagers and telling them about the plan to firebomb the police station. SOI-1 said the plan to attack the police station did not happen because C.M. thought too many people knew of the plan.

18. In February 2017, Source of Information-2 (SOI-2) stated that on or about August 15, he was at XX8X N. Sherman Blvd., and there were approximately twenty adults and teenagers there. SOI-2 identified D.M. and a "large dude" as the people who were manufacturing Molotov cocktails when SOI-2 was there. D.M. asked SOI-2 if he would throw rocks at police so others could firebomb the police station with the Molotov cocktails. SOI-2 stated that the adults voted not to firebomb the police station that night. SOI-2 saw the bag of rocks and the box of Molotov cocktails placed into C.M.'s car.

19. In February 2017, Source of Information-3 (SOI-3) stated that on or about August 15, SOI-3 met B.H. to discuss some events that followed the evening of the fires. B.H. told SOI-3 that police recovered Molotov cocktails and gas cans from XX8X N. Sherman Blvd. B.H. told SOI-3 that they "covered up" the gas cans by saying that they were used for a generator.

20. In November 2016, Source of Information-4 (SOI-4) stated that after the shooting of Sylville Smith on August 13, SOI-4 heard MAYES say that Sylville Smith needs justice. SOI-4 stated that on or about August 15, s/he went to XX8X N. Sherman Blvd. with about twenty other adults and teenagers. While at the location, SOI-4 saw MAYES, C.E., and B.H. SOI-4 saw MAYES sitting next to a black fabric bag filled with rocks. Also next to MAYES, SOI-4 saw a box with several empty glass bottles. SOI-4 said that MAYES was wearing gloves and filling the bottles with gasoline, dipping ripped shirts into a bowl of gasoline, and placing the soaked fabric into the tops of the bottles. SOI-4 said some of the bottles were Everfresh Juice bottles. At this gathering, SOI-4 heard adults discussing a plan to firebomb the MPD district police station located at 3626 W. Fond Du Lac Ave. SOI-4 stated that s/he and others drove by the police station located at 3626 W. Fond Du Lac Ave. and saw police on the building's rooftop. SOI-4 and the others went back to XX8X N. Sherman Blvd. and told the others that the police were ready for them. SOI-4 stated that because of the heavy police presence, the group decided against attacking the police station that night.

21. From the investigation ATF agents discovered that some of the youth who participated in MAYES' "Program the Parks" were present for the manufacturing of the Molotov cocktails and were asked to throw rocks at police.

22. From electronic evidence recovered from MAYES' residence during the August 29 search warrant, ATF discovered several videos recorded by MAYES during the rioting on August 13 and 14.

23. In Video 1 from MAYES' cellphone, he recorded himself during the civil unrest on August 13. During this video, a large group is seen in front of a line of Milwaukee Police Officers. In the video, MAYES is heard saying, "Where the rocks at? Who got the rocks?" and "Fuck you all! Punk ass cops. Getting they ass rocked!"

24. In Video 2 recovered from MAYES' cellphone, he recorded himself during the civil unrest on August 13. In this video, MAYES has his face covered with a mask and is heard saying, "They killing their ass with these motherfucking rocks. Rocking their shit. Shit going down."

25. In Video 3 recovered from MAYES' cellphone, he recorded a group of individuals who were damaging a police squad car during the rioting.

26. ATF also viewed videos from MAYES' Facebook account.

27. On August 14, 2016, at approximately 12:33 a.m., MAYES posted a Facebook video that captured MAYES walking near the intersection of Fond du Lac and Burleigh. In that video, MAYES stated that Milwaukee rioting "[T]urned into Baltimore. It turned into Ferguson. And it was necessary." In this same video, MAYES is heard describing the police district station located at 3626 W. Fond Du Lac Ave. as one of the "worst police departments, District Seven."

28. On August 15, 2016, at approximately 7:12 p.m., MAYES posted a collage of photos to his Facebook page of Milwaukee Police Officer Dominique Brown Heaggan with the following statement: "Officer Dominique Brown Heaggan killed #SyvilleSmith. Yall know what to do...Let's get this out!!! #Fuckem #FTP." FTP is an acronym for "fuck the police."

29. Further examination of MAYES' Facebook records showed that MAYES sent a private message at approximately 9:13 p.m. on August 15 to a person believed to be his sister, and the message stated, "Fa sho... Shit bout to get real tonight. Just so u know."

30. Also on August 15, MAYES posted a video to Facebook at approximately 9:50 p.m. in which he announced to people walking near Sherman Park, "It's about to get real. Y'all are leaving. Y'all ain't going to see how real it's going to get."

31. MAYES' cellphone records from August 15, 2016 show that his cellphone, at time that the Molotov cocktails were being manufactured, was utilizing a cell tower that provided coverage in the area of XX8X N. Sherman Blvd.

32. A Molotov cocktail is a destructive device and a firearm.²

33. MAYES is prohibited from possessing firearms because he has a felony conviction from Milwaukee County Case 2005-CF-2586 (Drive/Operate a Vehicle Without Consent). That conviction remains of record and unreversed.

² Under 18 U.S.C. § 921(a)(3, 4), the definition of "firearm" includes a "destructive device", which includes: "(i) any explosive, incendiary, or poison gas (ii) bomb, (iii) grenade, (iv) rocket having a propellant charge of more than four ounces, (v) missile having an explosive or incendiary charge of more than one-quarter ounce, (vi) mine, or (vii) device similar;... and any combination of parts either designed or intended for use in converting any device into a destructive device...."